

Message Text

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ACTION L-03

INFO OCT-01 EUR-12 ISO-00 OES-06 ACDA-07 AGRE-00 AID-05
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DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05 FEAE-00 FMC-01
TRSE-00 H-01 INR-07 INT-05 IO-13 JUSE-00 NSAE-00
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MADRID ATTENTION AMB. RIDGWAY, US ICNAF DEL

E.O. 11652: N/A

TAGS: EC, EFIS, ICNAF

SUBJECT: US/EC CONSULTATIONS ON A GOVERNING INTERNATIONAL FISHERY
AGREEMENT (GIFA)

REF: (A) STATE 295427, (B) MADRID 9104, (C) STATE 295103,
(D) STATE 282823, (E) STATE 290088

1. SUMMARY: MISSION INFORMED EAMON GALLAGHER, (DIRECTOR
FOR EXTERNAL RELATIONS OF EC COMMISSION), MICHAEL HARDY (COM-
MISSION LEGAL ADVISOR), AND RAYMOND SIMMONET (COMMISSION
OFFICIAL RESPONSIBLE FOR FISHERIES NEGOTIATIONS) OF SUB-
STANCE IN REFS A AND B. GALLAGHER CONFIRMED THAT DECEMBER
13-14 DATES ARE AGREEABLE TO COMMISSION FOR STAFF TALKS AS
DESCRIBED REF D. HE HOPED THAT, IN THE EVENT A FORMAL US/EC
GIFA IS NOT CONCLUDED BEFORE THE END OF 1976, SOME ARRANGE-
MENT WILL BE FOUND TO PERMIT SOME FISHING IN US WATERS BY
THE EC AFTER MARCH 1, 1977. HE ALSO REPEATED HIS CONCERN
THAT THE US-EC GIFA SHOULD BE NO LESS FAVORABLE THAN OTHER
GIFAS CONCLUDED BY THE US AND ASKED FOR TEXT OF US-USSR
GIFA IN PARTICULAR. GALLAGHER TOOK NOTE OF OUR EXPEC-
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TATION THAT THE EC WILL NOT TERMINATE TRADITIONAL US

FISHING IN ANY EC EXTENDED FISHING ZONES PENDING CONCLUSION OF A SECOND FISHERY BILATERAL WITH THE US BUT DID NOT COMMENT NOR SET A DATE FOR POSSIBLE NEGOTIATIONS. GALLAGHER PROMISED A MEMORANDUM FOR THE DECEMBER 13 TALKS INDICATING HOW THE EC PLANS TO RESOLVE THE COMPETENCE ISSUE AND GAVE A FEW PRELIMINARY REACTIONS TO THE US COMMENT ON THE BRACKETED DRAFT US-EC GIFA. END SUMMARY.

2. DCM REMINDED GALLAGHER THAT THE US CANNOT SIGN THE PROPOSED AGREEMENT UNTIL THE EC HAS MADE PROGRESS IN ASSURING THAT THE NECESSARY INTERNAL LEGAL INSTRUMENTS WILL BE IN PLACE TO ASSURE THE US THAT THE COMMUNITY WILL HAVE THE AUTHORITY AND MEANS TO ASSURE COMPLIANCE WITH THE OBLIGATIONS AND PROVISIONS OF THE GIFA. WE SAID THAT WE NEED SOME INDICATION AS SOON AS POSSIBLE AS TO HOW THE EC PLANS TO COPE WITH THESE PROBLEMS, INCLUDING RESPONSE TO THE LIST OF QUESTIONS PRESENTED TO THE COMMISSION IN NOVEMBER.

3. GALLAGHER AND HARDY ACKNOWLEDGED THAT PREOCCUPATION WITH THE INTERNAL FISHERY REGIME AND INVOLVEMENT WITH THIRD COUNTRY NEGOTIATIONS HAVE PREVENTED MUCH PROGRESS ON THE PARALLEL TASK OF ESTABLISHING THE NECESSARY LEGAL INSTRUMENTS TO ASSURE COMPLIANCE BY THE EC AND MEMBER STATES WITH THE TERMS AND OBLIGATIONS OF A GIFA. A DRAFT COUNCIL RESOLUTION REGARDING SOME ASPECTS OF THE INTERNAL FISHERY REGIME HAS BEEN PASSED THROUGH COREPER AND MAY BE APPROVED BY THE EC COUNCIL DECEMBER 13-14. SOME NECESSARY MEASURES ARE NOW ALSO BEING ADOPTED BY NATIONAL ACTION IN THE MEMBER STATES. THE COMMISSION STILL HAS TO CLARIFY THE ADDITIONAL REGULATIONS AND MEASURES WHICH WILL BE REQUIRED TO RESOLVE THIS ISSUE, BUT GALLAGHER NOTED THAT IT WOULD BE MOST DIFFICULT, PERHAPS IMPOSSIBLE, FOR THE PROCESS TO BE COMPLETED BY THE END OF THIS YEAR ALTHOUGH IT SHOULD BE BY MARCH 1, 1977. HE PROMISED THAT THE COMMISSION WOULD PREPARE A MEMORANDUM FOR THE DECEMBER 13-14 US-EC TALKS REVIEWING THIS SITUATION.

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4. GALLAGHER EXPRESSED CONCERN REGARDING THE UNAVOIDABLE DELAYS IN CONCLUDING AN AGREEMENT AND PLACING IT IN FORCE BY MARCH 1, 1977. HE HOPED THAT A "TOO REGOROUS US POSITION" WOULD NOT RESULT IN A TOTAL BAN ON FISHING BY THE EC IN US FISHING ZONES AFTER THAT DATE.

5. GALLAGHER ALSO STATED THAT HE DID NOT WISH TO BE PLACED IN THE POSITION OF RECOMMENDING TO THE COMMUNITY

THAT IT ACCEPT A FISHERY AGREEMENT WITH THE US CONTAIN-
ING PROVISIONS LESS FAVORABLE THAN THOSE CONTAINED IN
US GIFAS WITH OTHER STATES. HE NOTED IN PARTICULAR
THE IMPORTANCE OF BEING INFORMED ON THE TERMS OF THE
US-USSR GIFA, ESPECIALLY THOSE REGARDING THE ACKNOWLEDG-
MENT OF US AUTHORITY AND THE POSSIBILITY OF ARRESTING
FISHERMEN FOR INFRACTIONS OF THE US FISHERY LAW.

6. GALLAGHER OFFERED THE FOLLOWING PRELIMINARY
COMMENTS ON THE US SUGGESTIONS REGARDING THE BRACKETED
GIFA DRAFT:

A. THE EC IS STILL CONCERNED OVER PAYMENT OF EES
(ARTICLE VI OF GIFA) AND REIMBURSEMENT FOR COSTS OF
OBSERVERS. (ARTICLE VIII) HE ASKED FOR THE RANGE OF FEES AND COSTS
ENVISAGED BY US. (THE MISSION EXPLAINED THESE ARE
EXPECTED TO BE RELATIVELY LOW AND THAT THE NEGOTIATING
TEAM MIGHT BE ABLE TO BE MORE SPECIFIC DURING THE UP-
COMING TALKS.)

B. REGARDING THE US REJECTION OF EC-PROPOSED PARA 2
OF ARTICLE XIV, GALLAGHER NOTED THAT THE EC IS PRE-
PARED TO NEGOTIATE FISHERY AGREEMENTS WITH THE US AND
OTHER COUNTRIES PROVIDING SOME ACCESS TO FISHING IN
THE EXTENDED EC FISHING ZONES EVEN WHEN THERE IS NO
SURPLUS OVER THE TOTAL AVAILABLE CATCH AND THE AMOUNT
THAT COULD BE CAUGHT BY COMMUNITY FISHERMEN. HE BE-
LIEVES THE US IN DISTRIBUTING ITS DECLARED SURPLUS TO
THIRD COUNTRIES SHOULD GIVE SOME RECOGNITION AND PRE-
FERENCE TO COUNTRIES PROVIDING SUCH ACCESS OVER THOSE
WHO ARE OFFERING NOTHING, AND URGED WE REVIEW LANGUAGE
THAT PARA TO SEE IF THERE WERE SOME WAY TO RECORD
THIS CONCEPT. HE STRESSED THAT HE WAS NOT ASKING FOR
A GUARANTEED FISHERY HERE, BUT SIMPLY TO IDENTIFY AN
ADDITIONAL CRITERION WHICH US MIGHT TAKE INTO ACCOUNT
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IN ALLOCATING ANY DECLARED SURPLUS.

C. GALLAGHER SAID THAT THE PROPOSED US TEXT OF THE
AGREED MINUTE LIMITING ACCESS TO US WATERS TO TRADITIONAL
FISHERMEN (PARA 20 REF B) WILL CAUSE HIM GREAT DIFFI-
CULTY WITH MEMBER STATES WHO HAVE NOT YET BEEN CON-
SULTED REGARDING THIS PROVISION. HE SAID THAT AGREEMENT
BY MEMBER STATES MAY BE EASIER TO OBTAIN IF THE TEXT
READS THAT ACCESS WILL BE ACCORDED ONLY TO QUOTE THOSE
FISHING FLEETS OF THE COMMUNITY HAVING A TRADITIONAL
FISHERY OFF THE COAST OF THE US UNQUOTE RATHER THAN
QUOTE TO THOSE MEMBER STATES OF THE COMMUNITY HAVING
ETC. UNQUOTE. REASON FOR CHANGE, WE BELIEVE, RELATES
TO FACT THAT COMMISSION WANTS TO AVOID ANY EXPLICIT
REFERENCE TO MEMBER STATES, SINCE SUCH MIGHT GIVE RISE
TO DEMAND FOR RATIFICATION BY EACH MEMBER STATE PAR-

LIAMENT (A PROCESS WHICH COULD DRAG ON FOR MONTHS).

7. DCM DREW ON PARA 21 OF REF B REGARDING A SECOND FISHERY AGREEMENT TO PROVIDE CONTINUED US ACCESS TO FISHING ZONES OFF FRENCH GUYANA AND POSSIBLY OTHER AREAS, NOTING OUR EXPECTATION THAT THE EC WILL NOT BAN FURTHER FISHING BY THE US AFTER JANUARY 1, 1977, PENDING CONCLUSION OF AN AGREEMENT. GALLAGHER TOOK NOTE OF OUR INTEREST BUT DID NOT RESPOND DIRECTLY EXPECT TO COMMENT THAT INTERIM ARRANGENTS FOR A FEW MONTHS ARE BEING CONSIDERED FOR SOME THIRD COUNTRIES IN THE NORTHEAST ATLANTIC SINCE MOST AGREEMENTS NOW UNDER NEGOTIATION WILL NOT BE IN PLACE BY JANUARY 1. HE ALSO DID NOT SET A DATE TO INITIATE NEGOTIATIONS OF A SECOND FISHERY BILATERAL. (AFTER GALLAGHER'S DEPARTURE, SIMMONET COMMENTED THAT IT WAS MOST UNLIKELY THAT THERE WOULD BE A SHRIMP SURPLUS OFF FRENCH GUYANA. DCM INDICATED THAT THE UNFAVORABLE PUBLIC OUTCRY BY A FEW DISGRUNTLED US SHRIMP FISHERMEN IF THEY WERE THROWN OUT OF EC WATERS ON JANUARY 1 WOULD NOT HELP OUR EFFORTS TO PLACE A SATISFACTORY GIFA IN FORCE AS SOON AS POSSIBLE.)

8. MISSION ALSO GAVE SIMMONET COPIES OF THE US FISHING PERMITS DOCUMENTATION WHICH HAD BEEN LEFT HERE BY THE GIFA NEGOTIATING TEAM IN NOVEMBER. (THE POUCHED COPIES NOTED REF D ARRIVED AFTER OUR MEETING). DCM NOTED IMPORT-LIMITED OFFICIAL USE

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ANCE OF PREPARING FORMS IN ADVANCE IN ORDER TO MINIMIZE DELAYS ONCE THE US-EC GIFA IS CONCLUDED. SIMMONET AGREED BUT APPEARED DISTURBED BY THE DEGREE OF DETAIL REQUIRED AND SAID HE WOULD SEEK CLARIFICATIONS OF WHAT WE NEEDED WHEN US TEAM COMES NEXT WEEK.

9. ACTION REQUESTED: PLEASE SEND US TEXTS OF PERTINENT ARTICLES IN US-USSR GIFA NOTED PARA 5, OR, BETTER, TEXT FO ENTIRE AGREEMENT BEFORE MEETINGS DECEMBER 13 AS PROMISED REF E. HINTON

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